

Remarks:

Claims 1-21 are currently pending in the above-referenced application. In the office action dated June 1, 2005, the Examiner rejected claims 1, 3-11 and 20 under 35 U.S.C. § 102(b) as being unpatentable over U.S. Patent No. 5,403,551 ("Galloway et al."). Claims 1-9 were rejected under the doctrine of obviousness-type double patenting based on U.S. Patent No. 6,488,669 ("Sagona et al."). The Examiner indicated that claims 12-19 and 21 contained allowable subject matter.

The June 1, 2005 office action and the references cited therein have been carefully considered. Based on the foregoing amendments and the remarks that follow, Applicants respectfully submit that the application is in condition for allowance.

Claim Rejections - 35 U.S.C. § 102(b)

Claim 1 has been amended to incorporate the subject matter of claim 2, which was not rejected based on Galloway et al., and therefore is presumed to be distinguishable over Galloway et al. In particular, claim 1 was amended to recite a trough "comprising a surface that includes at least one aperture positioned to allow excess sample stored in said trough to flow into said central chamber when said collection device is placed in an upright position after pouring". Galloway et al. does not disclose a trough having an aperture that allows excess sample stored in the trough to flow into said central chamber when the collection device is placed in an upright position. Therefore, Applicants respectfully submit that the rejection of claim 1 based on Galloway et al. is traversed in view of the amendment.

In view of the amendment of claim 1, claim 2 has been cancelled.

Claims 3-11 are dependent on claim 1 and incorporate all the elements recited in claim 1. Therefore, Applicants respectfully submit that claims 3-11 are allowable over Galloway et al. for at least the same reasons provided with respect to claim 1.

Claim 20 has been amended to incorporate the allowable subject matter of claim 21. Claim 20, as amended, recites a method for testing a sample using a test kit comprising the steps: (a) providing a collection device having a central chamber, a lid, a cup, a trough formed in the lid positioned adjacent the central chamber and configured to receive a portion of the test kit, an interior pour spout positioned between the central chamber and the trough, and an exterior pour spout; (b) attaching the lid to the cup; (c) introducing a sample into the central

chamber; (d) pouring sample from the collection device through the interior and exterior pour spouts, thereby introducing a controlled volume of the sample into the trough; and (e) inserting the test kit into the trough in the lid, thereby submerging a portion of the test kit in the controlled volume of the sample. Since claim 20 incorporates the allowable subject matter of claim 21, Applicants submit that claim 20 is condition for allowance.

In view of the amendment of claim 20, claim 21 has been cancelled.

Double Patenting

In response to the double patenting rejection of claims 1-9, Applicants are submitting with this amendment a terminal disclaimer in accordance with 37 C.F.R. § 1.321(c). Applicants respectfully submit that the double patenting rejection of claims 1-9 is overcome.

Claim Objections

The Examiner indicated that claims 12-19 are allowable. Applicants have rewritten claim 12 into independent form, incorporating the originally recited base claim and any intervening claims, for the purpose of placing claim 12 in proper form for allowance. No subject matter has been added or surrendered in amending claim 12 into independent form.

New Claim

Applicants have submitted new claim 22, which recites a collection device for use with a testing system, the device comprising a central chamber defining an open volume, a trough defining a test kit docking area and having an open volume smaller than the open volume of the central chamber, an interior pour spout connecting the central chamber and the test kit docking area in fluid communication, and an exterior pour spout connecting the test kit docking area in fluid communication with the exterior of the device, wherein the central chamber is adapted to hold a sample, the trough is adapted to receive a controlled volume of the sample into the test kit docking area as the sample is poured from the device through the interior pour spout and the exterior pour spout, and the trough is configured to receive a portion of a test kit for submersion in the controlled volume of the sample in the test kit docking area. Claim 22 is supported in sections of the specification, including but not limited to page 16, line 19 to page 18, line 26.

Galloway et al. does not disclose a collection device having the features recited in claim 22. For example, Galloway et al. does not disclose an exterior pour spout connecting the test kit docking area in fluid communication with the exterior of the device. Rather, the testing area in Galloway, et al. is enclosed by a cover 48 and sealed from the outside by seals 62, 64, preventing fluid communication with the outside of the container. (Col. 4, lines 52-56). Accordingly, Applicants submit that new claim 22 is allowable over Galloway, et al.

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Conclusion

In light of the foregoing amendments and remarks, Applicants believe that the application is in a condition for allowance. The Examiner is encouraged to contact the Applicants' undersigned attorney at (610) 993-4213 if the Examiner believes that issues remain regarding the allowability of this application.

Respectfully submitted,



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Attachment: Terminal Disclaimer

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